
From: Waye, Don
To: Hall, Lynda
Sent: 1/28/2015 5:20:53 PM
Subject: RE: OR CZARA disapproval - EPA response to CEQ questions

Thank you.

From: Hall, Lynda
Sent: Wednesday, January 28, 2015 5:13 PM
To: Waye, Don
Subject: RE: OR CZARA disapproval - EPA response to CEQ questions
Importance: High

Thanks Don, very nicely done.

From: Waye, Don
Sent: Wednesday, January 28, 2015 4:42 PM
To: Ex. 6 -- Ellen Tarquinio
Cc: Best-Wong, Benita; Evans, David; Nandi, Romell; Wall, Tom; Hall, Lynda
Subject: OR CZARA disapproval - EPA response to CEQ questions

Ellen,

Thanks for your follow-up call to me today. As agreed, I am attaching the detailed 12+ page communications rollout plan that accompanies this decision. I have also provided responses in blue to your questions in red below. Where I think it helpful, I have provided edits/comments in blue to the black text below, which you obtained from NOAA.

I hope this helps.

Don Waye
U.S. EPA - Nonpoint Source Control Branch
Phone: 202-566-1170

From: Tarquinio, Ellen Ex. 6 -- Ellen Tarquinio
Sent: Wednesday, January 28, 2015 1:04 PM
To: Nandi, Romell
Subject: OR CZARA disapproval

Hi Romell-

Thanks for taking the time to chat. Here's the request: NOAA flagged the OR CZARA disapproval today for CEQ and folks are now looking for more information on it. Ex. 5 --deliberative process
Ex. 5 --deliberative process Thank you!


NOAA flagged that this section below. The areas we need more info on are in red.

NOAA and EPA jointly administer the Coastal Nonpoint Program, a national program that requires states to develop approaches for limiting coastal nonpoint source pollution. States that have an approved program receive funds from the federal government in order to implement the program and conduct other related actions. However, Oregon (and a number of other states) have historically not come into compliance [**This is not the language of CZARA and has not been discussed in any briefing material or talking point that I have seen. It's not even accurate.**], even though they receive annual funding [**the funding is not for CZARA**]. As a result, NOAA and EPA were sued by Northwest Environmental Advocates for not requiring an approved program in Oregon [**Again, not accurate. Oregon had an approved program. It was conditionally approved by NOAA/EPA in 1998. The suit was about the plaintiff's**

claims that we should not have conditionally approved Oregon's coastal nonpoint program. EPA/NOAA contend that we were within our rights to conditionally approve in 1998, but agreed to settle the suit to advance Oregon's program toward full approval.]. Under the terms of a settlement agreement, NOAA and EPA have committed to take a final action to approve or disapprove Oregon's coastal nonpoint program by January 30, 2015. Has this occurred before with another state?


No. The lawsuit against NOAA/EPA applied only to Oregon's coastal nonpoint program and we have never been sued over another state's coastal nonpoint program. In this case, we sought a settlement agreement that was aimed at providing a win-win-win outcome, meaning, we worked with Oregon to craft out a settlement agreement they could live with—that provided a pathway to full program approval. If Oregon had held to that pathway, there would have been a “win” for the state, for the federal agencies and for the plaintiff.

(b)(5) Deliberative



Oregon is committed to addressing the gaps in its program and working with NOAA and EPA to establish specific actions and interim milestones that must be met to ensure the State will be able to demonstrate it has a fully approvable program as expeditiously as possible. There are high level discussion between Oregon's governor's office and political appointees at EPA and NOAA to hammer out these milestones beginning in February. NOAA/EPA envision that Oregon will propose a first draft of milestones and the agencies are committed to working with the State to craft this pathway to full approval.

(b)(5) Deliberative



We have already begun outreach to Oregon's Congressional delegation, including by Region 10's Regional Administrator. The Oregon governor's Office is also reaching out to the Congressional delegation to make them aware that the State is moving forward in partnership from this Friday's decision. For further details on the scope of our outreach to various groups, please see the attached communications roll-out plan. As for engaging other states with conditionally approved coastal nonpoint programs, NOAA/EPA will continue our active engagement with them to get them to full approval as soon as possible. Many states are redoubling efforts, particularly in light of the activity around Oregon's program. For instance, NOAA/EPA are lead participants in a Coastal States Organization-hosted forum to advance the development of state coastal nonpoint programs.

Ellen Tarquinio
Deputy Associate Director for Water
Council on Environmental Quality
Ex. 6 -- Ellen Tarquinio
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